



BULLETIN B 18-06

**TO: INSURERS WRITING WORKERS' COMPENSATION INSURANCE IN ALASKA
AND OTHER INTERESTED PARTIES**

RE: MISCELLANEOUS WORKERS' COMPENSATION ISSUES

This bulletin provides guidance on multiple issues for which the division has either received questions or which may require the attention of insurers and licensees writing or selling workers' compensation insurance in Alaska.

Audit Noncompliance Charge

In 2015, the National Council on Compensation Insurance (NCCI) filed item filing B-1429 countrywide establishing an "Audit Noncompliance Charge" (ANC) to enable insurers to charge additional premium when the policyholder's noncompliance with the Premium Audit section of the policy has prevented the insurer from properly determining the policy's premium basis. The Alaska Division of Insurance (division) disapproved this item filing for use in Alaska. Accordingly, insurers may not use the ANC endorsement or rule in Alaska¹.

Except to the extent an insurer has an approved deviation, premiums must be calculated in accordance with NCCI's approved rules, including the determination of a policy's premium basis; see [AS 21.39.070](#) and [AS 21.39.040\(h\)](#). NCCI's approved rules do not allow an insurer to apply an additional charge based on a policyholder's noncompliance or to otherwise inflate the premium or premium basis to incent compliance or for punitive purposes.

Table of Insurance Charges / Table of Aggregate Loss Factors

The division has approved NCCI's filing R-1414(R) revising NCCI's Retrospective Rating Plan Manual, effective January 1, 2019. See NCCI Approval Circular CIF-2017-59². This filing includes an optional element for insurers, requiring insurers to choose between using the Table of Aggregate Loss Factors (ALFs) found in Appendix B in NCCI's Retrospective Rating Plan Manual, or the "ALFs on Demand" tool, available on NCCI's website, to calculate the net aggregate loss factors for retrospectively rated policies. Per NCCI's approved filing, the option must be made annually, on a

¹ Insurers, however, may continue to charge additional premium under NCCI Rule 2(H)(2) of the Basic Manual – 2001 Edition which provides "[f]or each subcontractor not providing such evidence of workers' compensation insurance, additional premium must be charged on the contractor's policy for the uninsured contractor's employees ..."

² In accordance with AS 21.39.041(e), the filing will be open to public inspection after it becomes effective. Beginning January 1, 2019, this filing can be accessed through SERFF Filing Access via the link on the division's website or at <https://filingaccess.serff.com/sfa/home/AK>, by searching for SERFF Tracking Number NCCI-131096979.

state-by-state basis, such that an insurer applies a single method to all retrospectively rated policies in their book of business which become effective during a given calendar year in a particular state.

To comply with the filing requirements under AS 21.39.040, insurers that write retrospectively rated policies or utilize approved rating plans that reference and rely on NCCI's current Table of Insurance Charges (also known as "Table M"), must make a filing with the division prior to January 1, 2019 to identify the option they intend to use effective January 1, 2019. Subsequent filings are only required if an insurer subsequently changes options. Filings must be made in accordance with the requirements within [AS 21.39.041](#) and [3 AAC 31.210-299](#), as applicable to workers' compensation rule filings.

Regulatory Order R 17-07 and NCCI's Large Risk Alternative Rating Option

Regulatory [Order R 17-07](#), issued on October 5, 2017, modifies the filing requirements for certain commercial rating plans. In response to the order, NCCI has reestablished their Retrospective Rating Plan Manual's Large Risk Alternative Rating Option (LRARO) rule in Alaska, effective March 1, 2018, with state specific parameters to satisfy the order. See NCCI Approval Circular AK-2018-03³.

Since all insurers writing workers' compensation insurance in Alaska generally must follow NCCI's approved rules, insurers are strongly encouraged to familiarize themselves with the parameters of the Alaska version of NCCI's LRARO rule to ensure applicable policies are issued in compliance with AS 21.39.040(h).

Insurers with approved rules that refer to, rely on, and/or serve to alter NCCI's Retrospective Rating Plan Manual (e.g. "deviations" as described in AS 21.39.070) are encouraged to revisit any such rules to ensure proper continuity and coordination is maintained between the independently filed rules and NCCI's rules. If revisions are found to be necessary, the insurer shall make the appropriate filings with the division to ensure compliance with AS 21.39.040(h). In making these filings, to lessen the potential for delays or disapproval, please be mindful of the requirements outlined in Order R17-07.

Finally, insurers are reminded that, prior to implementing a negotiable rating rule for a policy type for which NCCI has no applicable rules approved in Alaska (e.g. loss reimbursement or excess policies), the insurer must have the rule approved by the division before issuing policies utilizing the negotiable rating rule. See AS 21.39.040(a) and (h) and R17-07 Order items B and E.

NCCI's Ability to Perform Test Audits and Inspections

As the rating organization and statistical agency for workers' compensation insurance in Alaska, NCCI must ensure the data it receives is accurate and reliable. Without this assurance, it is not possible for NCCI to, for example, develop accurate and equitable insurance premiums, and in turn not possible for the division to carry out a fundamental purpose of "regulating insurance rates in order that they will not be excessive, inadequate, or unfairly discriminatory".

Accordingly, NCCI maintains various processes or "programs", not inconsistent with state laws, to ensure to a reasonable extent that they are able to carry out their ratemaking and advisory services with an acceptable degree of accuracy. One of these processes is NCCI's "test audit program", which allows NCCI to: check the accuracy and reliability of carriers' audits, verify the classifications

³ The applicable filings can be accessed through SERFF Filing Access via the link on the division's website or at <https://filingaccess.serff.com/sfa/home/AK>, by searching for SERFF Tracking Numbers NCCI-131364318 (rules) NCCI-131364319 (endorsement).

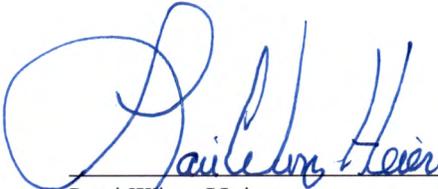
assigned, and ensure that the premiums were developed using proper rates, procedures, and manual rules; improve audit proficiency by reviewing carrier auditing practices, issuing associated reports and providing useful educational material for auditing workers compensation policies; ensure that proper information is reported on the unit statistical reports used for the calculation of rates, loss costs and individual experience modifiers; and verify the accuracy of the claims data submitted to NCCI.

Another of these processes is NCCI's "classification inspection program", which allows NCCI to monitor the accurate and consistent application of the classification system by providing real-time, on-site inspections of current classification code utilization. These inspections: verify the classification codes identified on an employer's insurance policy; validate that the employer's current business operations and classifications are in conformity with NCCI manual rules and classifications; enable policy corrections to take place prior to unit statistical submissions; and enhance credibility in the ratemaking process. NCCI's inspection program also provides feedback to employers, carriers, and regulators on classification issues, provides real-time research and support of classification filings made on behalf of NCCI affiliates for state regulatory approval, and validates the classification system, which may be affected by a continually changing business environment and NCCI item filings.

The ability of NCCI to perform these functions are communicated to the policyholder within the policy in the sections dealing with audits and inspections and also appear within the Basic Manual of rules which is filed with and approved by the division. Further, many applications for workers' compensation insurance also require the insurer to agree to compliance with rules, procedures, policy terms and conditions related to audits and inspections. Still, to avoid any potential confusion as to whether NCCI has the ability to perform test audits and inspections, the division hereby acknowledges NCCI's authority to perform these functions.

If you have questions regarding this bulletin, please contact the Division of Insurance, P.O. Box 110805, Juneau, AK 99811-0805; (907) 465-2515; or via email at insurance@alaska.gov.

Dated June 8, 2018



Lori Wing-Heier
Director